AMENDED IN ASSEMBLY MAY 22, 1998

AMENDED IN ASSEMBLY MAY 14, 1998

AMENDED IN ASSEMBLY APRIL 23, 1998

AMENDED IN ASSEMBLY APRIL 13, 1998

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL   No. 1682

Introduced by Assembly Members Ortiz, Figueroa, Mazzoni, and Sweeney
(Coauthor: Senator Watson)

January 16, 1998

An act to add Section ~~1032 to, and to add Chapter 14.7 (commencing with Section 7235) to Division 7 of Title 1 of, the Government Code, and to add Sections 20103 and 20103.1 to the Public Contract Code, relating to child support.~~ *1788.4 to the Civil Code, to add Section 11010.7 to, and to add Chapter 14.7 (commencing with Section 7235) to Division 7 of Title 1 of, the Government Code, and to add Section 10234 to the Public Contract Code, relating to child support.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1682, as amended, Ortiz. ~~Public agencies: child~~ *Child* support*: debt collectors, state remuneration, and employee registry.*

(1) The Robbins-Rosenthal Fair Debt Collection Practices Act prohibits debt collectors from engaging in certain debt collection practices.

This bill would require each debt collector and private attorney who collects child support on behalf of a child support obligee to make in its advertising, commercials, and other solicitations a specified disclosure about fees it charges for its services and a circumstance in which the assignment of a child support obligation to a nongovernmental agency may result in the debt being dischargeable. This bill would prescribe the color, size, and style of type and language in which the disclosures are to be printed in written advertisements and solicitations.

(2) Existing law requires each employer to file specified information with the Employment Development Department, including reporting the hiring of any employee who works in this state and to whom the employer anticipates paying wages. The implementing regulations provide that only employers in specified industrial classifications are required to report the hiring of employees and only when the employers have 5 or more employees employed concurrently.

This bill would require each contractor who submits a contract bid to the state or who contracts with the state to report to the Employment Development Department the name and social security number of each person employed by the contractor who will perform work on a state contract for inclusion in the state's new employee registry. This bill would require each subcontractor of a contractor who contracts with the state, or who is identified in a bid for a state contract, to report to the department the name and social security number of each person employed by the subcontractor who will perform work on a state contract for the same purpose. This bill would also require each state agency that makes a state loan or awards a state grant to report to the department the loan or grant recipient's name, address, and social security number and the name of the recipient's employer for the same purpose. This bill would require each applicant for a state loan or a state grant to sign an affidavit, as specified, regarding child support.

This bill would require each state agency, including the California State University, to report the name and social security number of each contractor that contracts with the

state agency to the Employment Development Department for inclusion in the state's new employee registry.

This bill would specify the method by which this information is to be submitted or transmitted and the length of time the Employment Development Department is to maintain this information.

These provisions would become operative on July 1, 1999.

(1) Existing law prescribes various qualifications for eligibility to be employed by the state or any county, city, district, or other political subdivision of the state.

This bill would require every person who is given an offer of employment with the state or any county, city, district, or other political subdivision of the state, including the University of California, the California State University system, and any community college or school district, to file an affidavit with that agency's department of personnel disclosing any unpaid court-ordered child support obligations. If the affidavit discloses or the agency's department of personnel determines that an applicant owes any unpaid court-ordered child support, the bill would authorize the person to be employed only if he or she agrees to establish an earnings withholding order, as specified, and signs an affidavit that states that he or she will demonstrate a good-faith effort toward compliance, as specified, within 6 months of the start of employment. The bill would authorize the department of personnel of any state or local agency to undertake various related activities. The bill would provide that its provisions shall apply to the University of California only to the extent that the Regents of the University of California, by resolution, make them applicable.

(2) Existing law requires each employer to file specified information with the Employment Development Department, including reporting the hiring of any employee who works in this state and to whom the employer anticipates paying wages. The implementing regulations provide that only employers in specified industrial classifications are required to report the hiring of employees and only when the employers have 5 or more employees employed concurrently.

This bill would require each contractor and each subcontractor of a contractor who contracts with a county,

city, district, or other political subdivision of the state, including the University of California, the California State University, and any community college district or school district, to register with the Employment Development Department the name and social security number of each person employed by the contractor or subcontractor who will perform work on the contract for inclusion in the state's new employee registry. This bill would also require each county, city, district, or other political subdivision of the state, including the University of California, the California State University, and any community college district or school district that makes a loan or awards a grant to register with the department the loan or grant recipient's social security number and the name of the recipient's employer for the same purpose.

This bill would require each county, city, district, or other political subdivision of the state, including the University of California, the California State University, and any community college district or school district, to report the name and social security number of each contractor that contracts with that entity to the Employment Development Department for inclusion in the state's new employee registry.

To the extent that local public entities would be required to implement this provision, this bill would impose a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed $1,000,000 statewide and other procedures for claims whose statewide costs exceed $1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: ~~yes~~ *no*.

The people of the State of California do enact as follows:

1   ~~SECTION 1.   This act shall be known and may be cited~~
2   *SECTION   1.   The   Legislature   hereby   finds   and*
3   *declares all of the following:*
4   *(a) Compliance   with   court-ordered   child,   family,   or*
5   *spousal obligations is in the public interest and benefits all*
6   *residents of the State of California.*
7   *(b) The   children   of   California   need   and   deserve   the*
8   *emotional and financial support of both their parents.*
9   *(c) It   is   right   and   just   that   the   State   of   California*
10   *become   a   model   employer   in   promoting   and   facilitating*
11   *the establishment and enforcement of child support.*
12   *(d) The   License   Intercept   Program,   the   new*
13   *employee registry, and the Franchise Tax Board program*
14   *to recover unpaid child support have been tremendously*
15   *successful and serve as a model for federal and other state*
16   *legislation.*
17   *(e) Presidential Executive Order No. 12953 (Title 3 of*
18   *the Code of Federal Regulations, 1995 Compilation, page*
19   *325), dated February 27, 1995, requires each federal*
20   *agency to provide information to its employees and*
21   *members about actions they should take and services that*
22   *are available to ensure that their children are provided*
23   *the support to which they are legally entitled.*
24   *SEC. 2.   (a) It   is   the   intent   of   the   Legislature   to*
25   *ensure that individuals who benefit financially from the*
26   *state through employment, contract, or other financial*
27   *remuneration be in compliance with their court-ordered*
28   *child, family, or spousal obligation.*
29   *(b) It   is   the   intent   of   the   Legislature   that   the   new*
30   *employee registry be expanded to assure that all state*
31   *employees, vendors who contract with the state, and*
32   *others who receive financial remuneration from the State*
33   *of California be current in their child support obligations*
34   *or make scheduled payments pursuant to an agreement*
35   *with the district attorney to repay any arrearage.*
36   *(c) It is also the intent of the Legislature to establish*
37   *appropriate protocols to ensure that confidentiality of the*

1 *information reported to the district attorney is*
2 *maintained.*
3   *SEC. 3. Section 1788.4 is added to the Civil Code, to*
4 *read:*
5   *1788.4. (a) Each debt collector who collects child*
6 *support on behalf of a child support obligee, as defined in*
7 *Section 4550 of the Family Code, shall make the following*
8 *disclosure in any advertisement, commercial, or other*
9 *solicitation:*
10
11   *"The [name of debt collector] is a private for-profit*
12   *debt collector and not a governmental entity. [Name*
13   *of debt collector] charges a fee for its services."*
14
15   *(b) The debt collector shall also disclose that*
16 *assignment of a child support obligation to a*
17 *nongovernmental agency may result in the debt being*
18 *dischargeable if the support obligor files for bankruptcy.*
19   *(c) The disclosure set forth in subdivision (b) shall not*
20 *be required if both of the following are true:*
21   *(1) The assignment taken by a debt collector of the*
22 *child support obligation is an assignment for collection, as*
23 *defined in Harrison v. Adams, 20 Cal. 2d 646, in which the*
24 *support obligee retains a direct beneficial interest in the*
25 *support obligation, maintains control over the beneficial*
26 *interest, and will receive a present benefit from any*
27 *payment on the debt.*
28   *(2) The debt collector satisfies all other requirements*
29 *of bankruptcy law that the debt collector knows or with*
30 *reasonable diligence should have known would render*
31 *the debt nondischargeable in bankruptcy pursuant to*
32 *Section 523(a)(5) of Title 11 of the United States Code.*
33   *(d) The disclosure required by subdivision (a) shall be*
34 *printed in every written advertisement and solicitation as*
35 *follows:*
36   *(1) In a type size that is at least equal to one-quarter*
37 *of the type size used to advertise the collection service.*
38 *In no event shall the disclosure be printed in less than*
39 *8-point type.*

1   *(2) In the same style and color of type used to advertise*
2 *the collection service.*
3   *(3) Immediately   above,   below,   or   beside   the*
4 *advertised fee without any intervening words, pictures,*
5 *marks, or symbols.*
6   *(4) In the same language as the advertisement.*
7   *(e) This   section   shall   apply   to   an   advertisement,*
8 *commercial, or solicitation in English or any other*
9 *language.*
10   *(f) This   section   shall   also   apply   to   each   private*
11 *attorney who collects child support on behalf of a child*
12 *support obligee.*
13   *SEC.   4.   Chapter   14.7   (commencing   with   Section*
14 *7235) is added to Division 7 of Title 1 of the Government*
15 *Code, to read:*
16
17   *CHAPTER 14.7.   LOAN AND GRANT APPLICANTS AND*
18   *RECIPIENTS*
19
20   *7235.   (a) Each state agency that makes a state loan or*
21 *awards a state grant shall report the name, the address,*
22 *and social security number of the loan or grant recipient*
23 *and   the   name   of   the   recipient's   employer   to   the*
24 *Employment Development Department for inclusion in*
25 *the state's new employee registry pursuant to Section*
26 *1088.5 of the Unemployment Insurance Code. Reports*
27 *required pursuant to this section shall be submitted in*
28 *written   form   by   first-class   mail   or   transmitted*
29 *magnetically or electronically, or may be submitted or*
30 *transmitted by any other means that is authorized by the*
31 *Employment   Development   Department.   The*
32 *Employment Development Department shall maintain*
33 *the information it receives pursuant to this section for the*
34 *longer of one year or the time period prescribed by*
35 *Section 1088.5 of the Unemployment Insurance Code.*
36   *(b) Each applicant for a state loan or a state grant shall*
37 *sign an affidavit stating that he or she does not owe*
38 *delinquent child support or, if he or she does, the*
39 *applicant is current on a payment schedule negotiated*

1 *with the district attorney or established by the court for*
2 *arrearages or reimbursement.*
3 *(c) This section shall become operative on July 1, 1999.*
4 *SEC. 5. Section 11010.7 is added to the Government*
5 *Code, to read:*
6 *11010.7. (a) Each state agency, including the*
7 *California State University, shall report the name and*
8 *social security number of each contractor that contracts*
9 *with the state agency to the Employment Development*
10 *Department for inclusion in the state's new employee*
11 *registry pursuant to Section 1088.5 of the Unemployment*
12 *Insurance Code. Reports required pursuant to this*
13 *section shall be submitted in written form by first-class*
14 *mail or transmitted magnetically or electronically, or may*
15 *be submitted or transmitted by any other means that is*
16 *authorized by the Employment Development*
17 *Department. The Employment Development*
18 *Department shall maintain the information it receives*
19 *pursuant to this section for the longer of one year or the*
20 *time period prescribed by Section 1088.5 of the*
21 *Unemployment Insurance Code.*
22 *(b) If the contractor or subcontractor that contracts*
23 *with the state is a corporation or partnership, the state*
24 *agency shall report the name and social security number*
25 *of the responsible managing person for the corporation or*
26 *partnership. The name and social security number of a*
27 *shareholder of a corporation or a partner of a partnership*
28 *need not be reported unless the shareholder or partner*
29 *either is a responsible managing person for the*
30 *corporation or partnership, or is otherwise required to*
31 *report his or her name and social security number to the*
32 *Employment Development Department under existing*
33 *law.*
34 *(c) This section shall apply only to contracts entered*
35 *into with the state on or after July 1, 1999.*
36 *(d) Any person whose name and social security*
37 *number is included in the state's new employee registry*
38 *under another provision of existing law shall be deemed*
39 *to have complied with the reporting requirements of this*
40 *section.*

1 *(e) This section shall become operative July 1, 1999.*
2 *SEC. 6. Section 10234 is added to the Public Contract*
3 *Code, to read:*
4 *10234. (a) Each contractor who contracts with the*
5 *state shall report to the Employment Development*
6 *Department the name and social security number of each*
7 *person employed by the contractor who will perform*
8 *work on the state contract. This reported information*
9 *shall be for the purposes of inclusion in the state's new*
10 *employee registry pursuant to Section 1088.5 of the*
11 *Unemployment Insurance Code.*
12 *(b) Each subcontractor of a contractor who contracts*
13 *with the state shall report to the Employment*
14 *Development Department the name and social security*
15 *number of each person employed by the subcontractor*
16 *who will perform work on the state contract. This*
17 *reported information shall be for the purposes of*
18 *inclusion in the state's new employee registry pursuant to*
19 *Section 1088.5 of the Unemployment Insurance Code.*
20 *(c) If the contractor or subcontractor that contracts*
21 *with the state is a corporation or partnership, the name*
22 *and social security number of the responsible managing*
23 *person for the corporation or partnership shall be*
24 *reported. The name and social security number of a*
25 *shareholder of a corporation or a partner of a partnership*
26 *need not be reported unless the shareholder or partner*
27 *either is a responsible managing person for the*
28 *corporation or partnership, or is otherwise required to*
29 *report his or her name and social security number to the*
30 *Employment Development Department under existing*
31 *law.*
32 *(d) Reports required pursuant to this section shall be*
33 *submitted in written form by first-class mail or*
34 *transmitted magnetically or electronically, or may be*
35 *submitted or transmitted by any other means that is*
36 *authorized by the Employment Development*
37 *Department. The Employment Development*
38 *Department shall maintain the information it receives*
39 *pursuant to this section for the longer of one year or the*

1 *time period prescribed by Section 1088.5 of the*
2 *Unemployment Insurance Code.*
3   *(e) When a contract bid is submitted to the state on or*
4 *after July 1, 1999, the contractor that is submitting the bid,*
5 *and each subcontractor identified in the bid, shall report*
6 *to the Employment Development Department the name*
7 *and social security number of each person employed by*
8 *the contractor or subcontractor who will perform work*
9 *on the state contract if the contractor's bid is accepted.*
10   *(f) This section shall apply only to contracts entered*
11 *into with the state on or after July 1, 1999.*
12   *(g) Any person whose name and social security*
13 *number is included in the state's new employee registry*
14 *pursuant to any other provision of existing law shall be*
15 *deemed to have complied with the reporting*
16 *requirements of this section.*
17   *(h) This section shall become operative on July 1, 1999.*
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20   **All matter omitted in this version of the**
21   **bill appears in the bill as amended in the**
22   **Assembly, May 14, 1998 (JR 11)**
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